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By Email

October 17, 2023

The Honorable LaShann DeArcy Hall
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Xavier Oneal, 16-CR-21 (LDH)

Dear Judge DeArcy Hall:

Pursuant to the Court's Order dated September 28, 2023, I am writing on behalf of the parties to provide an update as to the status of the above-referenced matter. On September 28, 2023, the Court ordered that the parties file a status letter on or before Friday, October 13, 2023. I apologize for the late submission, which was my fault as I overlooked the deadline on my calendar. I planned to file the status letter yesterday, but because I had a legal telephone conference with Mr. Oneal scheduled for 1 p.m. today, October 17, I thought it would be better to wait until completing the call to ensure that I provide the Court with a fulsome status update.

On September 28, 2023, Mr. Oneal appeared before Chief Magistrate Judge Bloom for arraignment on the 15 charges pending against him in connection with his alleged violations of supervised release. Charges One through Nine are set forth in the Violation of Supervised Release Report ("VOSR Report") dated June 16, 2022. Those charges were pending when Mr. Oneal failed to appear for a status conference on September 14, 2022. Charges Ten through Fifteen are set forth in the Supplemental VOSR Report dated November 22, 2022.

Charges One through Five relate to Mr. Oneal's alleged participation in a theft of \$1,333.94 from a Home Depot located on 5700 Avenue U, Brooklyn, New York 11234. Charge Six alleges that Mr. Oneal failed to reside in a residential re-entry center during August 2022. Charges Seven and Eight allege that Mr. Oneal tested positive for marijuana use and then failed to participate in an outpatient drug treatment program. Charge Nine alleges that Mr. Oneal failed to comply with the conditions of his curfew between July 1, 2022 and August 10, 2022. Charges Ten through Fifteen relate to Mr. Oneal's alleged unauthorized travel to Pennsylvania on or about November 15, 2022, where he was arrested on state charges for retail theft, providing false identification to a law enforcement officer, and possession of marijuana. Mr. Oneal was remanded following his initial appearance in that case and was incarcerated in the George W. Hill Correctional Facility in Thornton, Pennsylvania. Although bail was set in that case in the amount of \$25,000, he remained incarcerated at that institution because a federal detainer was lodged against him.

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On May 19, 2023, after his state case was disposed of, Mr. Oneal appeared in the United States District Court for the Eastern District of Pennsylvania for an initial appearance and removal hearing on the VOSR charges in this case. Mr. Oneal stipulated to detention and removal to the Eastern District of New York. He was transported to the MDC on or about May 30, 2023. Mr. Oneal has been housed in the Special Housing Unit of the Metropolitan Detention Center for at least the last two months.

The parties have engaged in negotiations in an effort to dispose of this case without the need for a hearing. At this time, it does not appear that the pending VOSR charges will be resolved short of a hearing. Accordingly, the parties respectfully request that the Court schedule a date for an evidentiary hearing that is convenient to the Court.

I thank the court for its consideration in this matter.

Respectfully Submitted,

/s/ Eric M. Creizman

Eric M. Creizman (EC7684)

cc: AUSA Nomi Berenson (by email)
Senior United States Probation Officer Joshua Mack (by email)